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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**
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7 DMITRY YANUSHKEVICH,

8 Plaintiff,

9 v.

10 FRY'S ELECTRONICS, INC., et al.,

11 Defendants.
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Case No. 15-cv-04830-BLF

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION ON
UNOPPOSED APPLICATION BY
DEFENDANTS SI 11, LLC AND SI 43,
LLC FOR DETERMINATION OF
GOOD FAITH SETTLEMENT**

[Re: ECF 33, 37]

15 In this disability discrimination action, Plaintiff Dmitry Yanushkevich alleges that he is a
16 “physically handicapped person,” a “physically disabled person,” and a “person with physical
17 disabilities” as those terms are used in federal and state law. Compl. ¶ 6, ECF 1. He sues Fry’s
18 Electronics, Inc. (“Fry’s”) under the federal American with Disabilities Act (“ADA”) and state
19 law, alleging that on multiple occasions he encountered architectural barriers at the Fry’s
20 Electronics retail store located in Palo Alto, California. Plaintiff also sues the owners of the
21 premises, SI 43, LLC and SI 11, LLC, who have reached a settlement with Plaintiff. Defendants
22 SI 43, LLC and SI 11, LLC (“Moving Parties”) have filed an Application for Determination of
23 Good Faith Settlement, *see* ECF 33, which this Court referred to Magistrate Judge Susan van
24 Keulen for a Report and Recommendation, *see* ECF 36.

25 The Court has reviewed Judge van Keulen’s Report and Recommendation, recommending
26 that the Court grant Moving Parties’ unopposed application. *See* R&R, ECF 37. No objection to
27 the Report and Recommendation has been filed and the deadline to object has expired. *See* Fed.
28 R. Civ. P. 72(b)(2) (deadline for objection is fourteen days after being served with report and

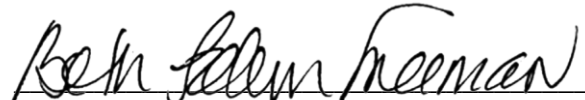
1 recommendation). Fry's, the only party to this suit which is not a party to the settlement, has filed
2 a non-opposition to the application, stating that Fry's "agrees the Court can deem the settlement in
3 good faith." Fry's Electronics' Non-Opposition at 3, ECF 34.

4 The Court finds the Report and Recommendation to be correct, well-reasoned and
5 thorough. In particular, the Court agrees with Judge van Keulen's conclusions that the settlement
6 in this case properly may be evaluated under California Code of Civil Procedure § 877.6 and that
7 the settlement between Plaintiff and Moving Parties satisfies the requirements of § 877.6. *See*
8 R&R at 4-5, ECF 37. Accordingly, the Court:

- 9 (1) ADOPTS the Report and Recommendation in its entirety; and
10 (2) GRANTS the Application for Determination of Good Faith Settlement.

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12 **IT IS SO ORDERED.**

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14 Dated: June 6, 2017

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16 BETH LABSON FREEMAN
17 United States District Judge
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